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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/630,829	07/31/2003	Jenny Chen	018150.0281	8138

24735 7590 10/26/2004

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EXAMINER

GEHMAN, BRYON P

ART UNIT	PAPER NUMBER
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3728

DATE MAILED: 10/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/630,829

Applicant(s)

CHEN, JENNY

Examiner

Bryon P. Gehman

Art Unit

3728

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 July 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6-9 and 11-12 is/are rejected.
- 7) ☒ Claim(s) 5 and 10 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-2 are rejected under 35 U.S.C. 102(b) as being anticipated by Kahl et al. (5,386,907). Disclosed is a carrying case comprising a housing having a top portion and opposite lateral sides (18, 18), a carrying member disposed on the top portion of the housing and including a first carrying body (24) having a first pivot end (at 34) connected pivotally to one of the lateral sides and a driving end opposite the first pivot end (at 26), and a second carrying body (22) having a second pivot end (at 34) connected pivotally to one of the lateral sides and a driven end opposite the second pivot end (at 26), the first carrying body having a first width measured between the first pivot end and the driving end greater than a second width of the second carrying body measured between the second pivot end and the driven end, the first carrying body being provided with a handgrip (42) thereon, the first and second carrying bodies being operable to move from a closed position to an open position, and an anchoring unit (40) provided on the top portion and the carrying bodies to releasably retain the bodies at a closed position.

As to claim 2, disclosed is the driving end of the first carrying body having an engaging groove (defined by lip 47) and the driven end of the second carrying body having a projecting block (44).

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 3-4, 6-9 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kahl et al. in view of Wiese et al. (6,422,386). Kahl et al. disclose a carrying case comprising a housing having a top portion, opposite lateral sides (18, 18) and a receiving space (25), a carrying member disposed on the top portion of the housing and including a first carrying body (24) having a first pivot end (at 34) connected pivotally to one of the lateral sides and a driving end opposite the first pivot end (at 26), and a second carrying body (22) having a second pivot end (at 34) connected pivotally to one of the lateral sides and a driven end opposite the second pivot end (at 26), the first carrying body having a first width measured between the first pivot end and the driving end greater than a second width of the second carrying body measured between the second pivot end and the driven end, the first carrying body being provided with a handgrip (42) thereon, the first and second carrying bodies being operable to move from a closed position to an open position, and an anchoring unit (40) provided on the top portion and the carrying bodies to releasably retain the bodies at a closed position. Wiese et al. disclose disposing a tool box (36) within a housing receiving space. To dispose any article within the housing of Kahl et al. is suggested by

Kahl et al. and to dispose a smaller toolbox therein, such as that of Wiese et al., would fail to distinguish any new and unexpected result.

As to claim 7, disclosed is the driving end of the first carrying body having an engaging groove (defined by lip 47) and the driven end of the second carrying body having a projecting block (44).

As to claims 3-4 and 8-9, Wiese et al. further disclose a housing (22) having an open side (at 30) provided with a tray (36). To modify the housing of Kahl et al. employing an open side therein would have been obvious in view of Wiese et al. in order to allow the provision of drawers to allow easier access to a compartmentalized tool box assembly.

As to claim 12, Wiese et al. disclose drawer slide mechanisms to be conventional. Official notice is taken that slide rails for drawers are old and well known.

5. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claim 9 above, and further in view of Lai (6,637,592). Lai discloses a bolt (50) extending through a positioning hole (314) in a tray (30) and another housing positioning structure (45). To modify the prior art combination further employing the positioning bolt teaching of Lai would have been obvious in order to secure the tray in a fixed position. To provide the housing positioning structure as a separate member or as a unitary portion of the housing would have been obvious, as to make structure interchangeably integral or unitary has been held to be obvious.

6. Claims 5 and 10 are each objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Shown are analogous tool box assemblies.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bryon P. Gehman whose telephone number is presently (703) 605-1174 and effective November 9, 2004, becomes (571) 272-4555. The examiner can normally be reached on Monday through Wednesday from 5:30am to 6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu, can be reached presently on (703) 308-2672 and after November 9, 2004 on (571) 272-4562. The fax phone number for the organization where this application or proceeding is assigned is 571-273-4555 effective November 8, 2004.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

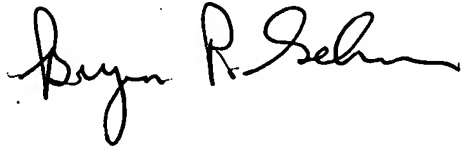
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you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "Bryon P. Gehman". The signature is fluid and cursive, with the first name "Bryon" being more prominent than the last name "Gehman".

Bryon P. Gehman
Primary Examiner
Art Unit 3728

BPG